IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 65 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/12/2004 in WP NO : 24355 OF 2004 on the file of the High Court.)

Between:

1 Nangedda Ahobila Rao, S/o. N. Sesha Rao,
Vivaka Village, Mudinepalli Mandal, Krishna District.
2 Nangedda Anjaneyulu, S/o. N. Sesha Rao,
Vivaka Village, Mudinepalli Mandal, Krishna District.
3 Gulla Ravi, S/o. Sriramulu,
Vivaka Village, Mudinepalli Mandal, Krishna District.
4 Tallari Subba Rao, S/o. Venkateswara Rao,
Vivaka Village, Mudinepalli Mandal, Krishna District.
5 Tantepudi Jayaraju, S/o. Jeseph,
Vivaka Village, Mudinepalli Mandal, Krishna District.

..... APPELLANTS

AND

1 The District Collector, Krishna District, at
Machilipatnam

2 The Revenue Divisional Officer, Gudivada, Krishna District.
3 The Mandal Revenue Officer, Mudinepalli Mandal, Mudinepalli, Krishna District.
4 The Station House Officer, Mudinepalli Mandal, Mudinepalli, Krishna District.

.....RESPONDENTS

Counsel for the Appellants : MR.O. MANOHAR REDDY F O R MR. S.V.RAMANA

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE

Counsel for the respondent No.4: None appeared.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1 . Appellants writ petition was dismissed on the objection raised by the learned Government Pleader appearing for respondents 1 to 3 though it was conceded by learned counsel for the appellants that there was adequate, efficacious statutory remedy available of preferring a revision before the competent authority under Section 9 of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act').

2 . Grievance of the learned counsel for the appellants now is that order impugned in the writ petition passed by the Revenue Divisional Officer, Gudivada, is not an order under Sections 3, 5, 5-A or 5-B of the Act. Revision under Section 9 of the Act would lie only when an order has been passed by Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer,

in exercise of powers under Section 3, 5, 5-A or 5-B, in respect of any record of rights prepared or maintained. Revision can also be entertained by Collector suo motu. Since order has not been passed under the aforementioned provisions by the Revenue Divisional Officer, there is no alternative remedy available to the appellants and therefore the appellants were debarred from invoking jurisdiction of the Court on a wrong premise.

3 . We have gone through the provisions of Sections 3 and 5 of the Act. Section 3 relates to preparation and updating of record of rights and Section 5 deals with amendment and updating of record of rights. The order passed by the Revenue Divisional Officer, in our view, will not fall under either of these provisions and therefore will not be revisable under Section 9 of the act inasmuch as by the order impugned, the Revenue Divisional officer has directed the Mandal Revenue Officer to collect and seize pattadar passbooks and title deeds from the petitioners – appellants and all connected records of Vaivaka village. This order is under challenge by the petitioners – appellants on the ground that Revenue Divisional Officer has no jurisdiction to pass such an order. Under these circumstances, it was but necessary for the learned single Judge to have entertained the writ petition and taken decision in accordance with law and not to relegate the petitioners to alternative remedy which is not available.

4 . In the result, writ appeal is allowed. Impugned order is set aside. Writ petition will be taken up for admission. Writ petition be posted before the learned single Judge on 25.01.2005. Till then, status quo will be maintained. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 19.01.2005.

VRK.

To

1 The District Collector, Krishna District, at Machilipatnam
2 The Revenue Divisional Officer, Gudivada, Krishna District.
3 The Mandal Revenue Officer, Mudinepalli Mandal, Mudinepalli, Krishna District.
4 The Station House Officer, Mudinepalli Mandal, Mudinepalli, Krishna District.

5. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

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W.A.NO. 65 OF 2005.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 19.01.2005.

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